

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PHYTO TECH CORP. d/b/a BLUE CALIFORNIA,

Plaintiff,

Civil Action No.

1:19-cv-09033-JGK

v.

GIVAUDAN SA,

Defendant.

**LIQUIDATING TRUSTEE'S MOTION
FOR RETENTION OF LEGAL COUNSEL**

Application granted,
providing no objection is
filed by 10/20/20.
So ordered.
JGK/Calit/4.8.2.5
10/14/20

Andrew De Camara, not individually but solely in his capacity as the Court-appointed liquidating trustee (the "Liquidating Trustee") of BGN Tech LLC ("BGN"), hereby moves this Court for entry of an Order authorizing the retention of Katten Muchin Rosenman LLP ("Katten") as legal counsel for the Liquidating Trustee, and respectfully represents as follows:

1. On September 27, 2019, Phyto Tech Corp. d/b/a Blue California ("Blue Cal") filed the above-captioned action seeking the appointment of a liquidating trustee pursuant to 6 Del. C. § 18-803 to wind up the affairs of BGN, a limited liability company with members, Blue Cal and Givaudan SA ("Givaudan", and together with Blue Cal, the "Members").

2. On January 28, 2020, the Court entered the *Order Regarding Appointment of Liquidating Trustee* [Dkt. No. 44] (the "Order"), appointing the Liquidating Trustee to wind up BGN. In accordance with paragraph 2 of the Order, the Liquidating Trustee filed the *Acceptance of Appointment of Liquidating Trustee* [Dkt. No. 48] on February 3, 2020.

3. Paragraph 11 of the Order authorizes the Liquidating Trustee, in his sole discretion, to retain legal counsel, subject to notice to the Members and appointment by the Court, and provides that a Member must file an objection to the retention of the Liquidating

Trustee's proposed counsel within seven days of such notice. (*See* Order at ¶ 11.) The Order further provides that the Liquidating Trustee may use such counsel at their customary hourly rates, and that any fees and expenses will be paid from the assets of BGN. (*See id.*)

4. The Liquidating Trustee seeks to retain Katten, at its attorneys' customary hourly rates, to advise him with respect to his duties in this proceeding. For purposes of disclosure, the Liquidating Trustee understands that Katten represents an affiliate of Givaudan in matters unrelated to BGN and this action. The Katten attorneys who will participate in the representation of the Liquidating Trustee are not involved in the representation of such affiliate.

5. The Liquidating Trustee has also conferred with the Members and has been advised that they do not object to his retention of Katten.

WHEREFORE, the Liquidating Trustee respectfully requests that this Court grant the Motion and authorize the employment and retention of Katten as counsel to the Liquidating Trustee.

Dated: October 13, 2020

Respectfully submitted,

/s/David A. Crichlow

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Proposed Counsel for the Liquidating Trustee

Certificate of Service

I hereby certify that on October 13, 2020, I electronically filed the foregoing *Liquidating Trustee's Motion for Retention of Legal Counsel* with the Clerk of the United States District Court, Southern District of New York using the CM/ECF system, which would then electronically notify all CM/ECF participants on this case.